RFM 9/2/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
08 SEP -2 AM 10: 18
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Jose Alejandro HERRERA-Montes** Defendant.	Magistrate Case No.________ COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii) - Bringing in Illegal Alien Without Presentation

'08 MJ 2683

The undersigned complainant being duly sworn states:

On or about **August 29, 2008,** at the Otay Mesa Port of Entry, within the Southern District of California, defendant **Jose Alejandro HERRERA-Montes** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that alien, namely, **Maria Elena DONDIEGO-Bermejo** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

SIGNATURE OF COMPLAINANT
Alfredo Loperena, Enforcement Officer
U.S. Customs and Border Protection

Sworn to before me and subscribed in my presence, this **2nd** day of **September, 2008.**

UNITED STATES MAGISTRATE JUDGE

DOA 08/29/08

PROBABLE CAUSE STATEMENT

I, United States Customs and Border Protection (CBP) Enforcement Officer Sergio Barron, declare under penalty of perjury the following to be true and correct:

The complainant states that **Maria Elena DONDIEGO-Bermejo** is a citizen of a country other than the United States; that said alien has admitted she is deportable; that her testimony is material; that it is impracticable to secure her attendance at trial by subpoena; and that she is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On August 29, 2008, at approximately 0530 hours. **Jose Alejandro HERRERA-Montes (Defendant)** made application for admission into the United States from Mexico at the Otay Mesa Port of Entry vehicle entrance lane. Defendant was the sole visible occupant and driver of a gray 1993 Buick Century station wagon. Defendant approached a U.S. Customs and Border Protection (CBP) officer manning the inspection booth and presented a DSP-150 Border Crossing Card bearing the name Andres Gilberto Lopez-Duarte. Defendant told the CBP officer he was the owner of the vehicle and not bringing anything from Mexico. A CBP Canine officer and his H/NDD (Human/Narcotic detector dog) were conduction roving operations near the vehicle and the H/NDD alerted to the vehicle. The CBP officer lifted the corner of the rear seat and saw what appeared to be the legs of a person. CBP officers escorted the Defendant and vehicle to secondary for further inspection.

In secondary, CBP officers discovered two females lying on the floor facing upright under the rear seat. CBP officers completely removed the bench seat and after numerous unsuccessful attempts, CBP officers removed the rear seat backrest creating enough room for the two females to be extracted. The two females were determined to be citizens of Mexico without entitlements to enter the United States. One of the females was identified as **Maria Elena DONDIEGO- Bermejo** and is being held as **Material Witness.** The other female, Ana Nelly Martinez-Olivares was administratively removed from the United States.

During a videotaped proceeding Defendant was advised of his Miranda rights. Defendant acknowledged his rights and elected to answer questions without an attorney present. During a subsequent interview Defendant admitted knowledge that vehicle contained undocumented aliens concealed in the vehicle but was unaware of how many. Defendant stated he made the smuggling arrangements with a smuggler her met at a bar in Tijuana, Mexico approximately one week ago. Defendant stated he was to receive $700.00 U.S. dollars as compensation for smuggling the undocumented aliens. Defendant stated he was to follow a vehicle driving directly in front of him and once across the border into the United States, he was to follow the vehicle to a location to turn over the vehicle containing the undocumented aliens.

A videotaped interview was conducted with Material Witness. Material Witness stated that she is a citizen of Mexico and that she has no documents to lawfully enter the United States. Material Witness stated that her husband made arrangements with an unknown smuggler in Mexico and was to pay $3,500.00 U.S. dollars to have her smuggled into the United States. Material Witness stated she intended to travel to California to reunite with her husband and seek employment.

Executed on this 29th day of **August 2008** at 1700 hours.

S. Barron / CBP Enforcement Officer

On the basis of the facts presented in the Probable Cause Statement consisting of (1) page, I find probable cause to believe that the defendant named therein committed the offense on **August 29, 2008** in violation of Title 8, United States Code, Section 1324.

MAGISTRATE JUDGE

8/30/08 -1150A
DATE / TIME